IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7779 OF 2005

Smt Rakhmabai V. Patil & Ors. ...Petitioners
Vs.
Smt Sitabai @ Venubai B. Patil ...Respondent

Mr Kiran J. Kandpile for the Petitioners.
Ms Alpa Javeri for the Respondent.

CORAM : S. B. MHASE, J.
DATE : MARCH 23, 2006.

P.C.:

1. Heard both the sides. Rule returnable forthwith. The order dated 13.06.2005 passed below Exhibit 1 of Misc. Civil Appeal No.26 of 2005 is under challenge. By said order appeal is dismissed. By the order dated 02nd April, 2005 the Misc. Appeal was admitted. By order dated 26.04.2005 private paper-book under paragraph No.461(ii) of the Civil Manual was directed to be filed by the next date. The next date was fixed on 13.06.2005. On that day, since no one was present and the paper-book was not filed as directed earlier, the Appeal was dismissed. This is too hyper-technical approach of the matter. The court lost sight of the fact that the Appellant has approached for getting justice and matter to be heard. Filing of paper-book was responsibility of the

Advocate. For such singular fault if the matters are dismissed, ultimately, party suffers. In the interest of justice and for fair play and opportunity, the order dated 13.06.2005 is set aside. The Misc. Civil Appeal No.26 of 2005 is hereby restored. The paper-book to be filed within period of two weeks before the District Judge. Accordingly, Petition is allowed. Rule accordingly.

. Parties to act upon an authenticated copy of this order.

JUDGE